

**TIFFANY & BOSCO**  
P.A.

**SEVENTH FLOOR CAMELBACK ESPLANADE II**

**2525 EAST CAMELBACK ROAD**

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18-00383

**IN THE UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF ARIZONA**

IN RE:

No. 2:18-bk-00685-PS

Willie Haynes and Greta Ann Haynes

Chapter 7

Debtors.

**MOVANT'S MOTION TO LIFT  
THE AUTOMATIC BANKRUPTCY STAY**

U.S. Bank National Association, as indenture  
trustee, for the CIM Trust 2016-2, Mortgage-  
Backed Notes, Series 2016-2

RE: Real Property Located at  
2241 E Pleasant Ln  
Phoenix, AZ 85040

Movant,

vs.

Willie Haynes and Greta Ann Haynes, Debtors;  
David A. Birdsell, Trustee.

Respondents.

Movant hereby requests an order granting relief from the automatic stay of 11 U.S.C. 362(a), to permit Movant to foreclose the lien of its Deed of Trust on real property owned by Debtors by trustee's sale, judicial foreclosure proceedings or the exercise of the power of sale, and to obtain possession and control of the real property.

1 This motion is supported by the attached Memorandum of Points and Authorities, which is  
2 incorporated herein by this reference.

3 DATED this 7th day of March, 2018.

4 Respectfully submitted,

5 TIFFANY & BOSCO, P.A.

6 BY /s/ LJM # 014228

7 Mark S. Bosco

8 Leonard J. McDonald

9 Attorney for Movant

10 MEMORANDUM OF POINTS AND AUTHORITIES

11 Willie Haynes and Greta Ann Haynes filed a voluntary petition for protection under Chapter 7 of  
12 the Bankruptcy Code. David A. Birdsell was appointed trustee of the bankruptcy estate. Debtors have an  
13 interest in that certain real property located in Maricopa County, AZ, more particularly described as:

14 LOT 132, OF DEL MONTE PLAZA, ACCORDING TO THE PLAT OF RECORD IN THE  
15 OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED  
IN BOOK 65 OF MAPS, PAGE 2.

16 Willie Haynes and Greta A. Haynes executed a Note secured by a Deed of Trust, dated January 11,  
17 2005, recorded in the office of the Maricopa County Recorder's Office. True copies of the Note and Deed  
18 of Trust are annexed as Exhibits "A" and "B", respectively, and made a part hereof by this reference. Further,  
19 Movant is the assignee of the Deed of Trust. The assignment of record is annexed as Exhibit "C". The terms  
20 of the Debt Agreement were amended by a Loan Modification Agreement entered into by and between  
21 Select Portfolio Servicing, Inc. and the Debtor dated September 22, 2016. A true copy of the Loan  
22 Modification Agreement is annexed as Exhibit "D".

23 As of February 20, 2018, Debtors are in default on the obligations to Movant for which the property  
24 is security and payments are due under the Promissory Note from and after May 1, 2017.

25 Movant is informed and believes and therefore alleges that the Movant and the bankruptcy estate are  
26 not adequately protected based upon the Debtors failure to make payments on a timely basis.

1 Movant is informed and believes and therefore alleges that the Debtors and the bankruptcy estate  
2 have no equity in the property. Pursuant to Debtors' Statement of Intentions the Debtors intend on  
3 surrendering the title and possession interest in the subject property. A true and correct copy of the Debtors'  
4 Statement of Intention is attached hereto as Exhibit "E".

5 As of February 20, 2018, Debtors are indebted to U.S. Bank National Association, as indenture  
6 trustee, for the CIM Trust 2016-2, Mortgage-Backed Notes, Series 2016-2 for the principal balance in the  
7 amount of \$116,039.27, plus accruing interest, costs, and attorney's fees.

8 Furthermore, Movant seeks relief for the purpose of foreclosing its Deed of Trust against the  
9 Debtors' interest in the real property located at 2241 E Pleasant Ln, Phoenix, AZ 85040.

10  
11 CONCLUSION

12 Movant requests that the court enter an order vacating the automatic stay of 11 U.S.C. Section 362(a)  
13 as to the debtors, the bankruptcy estate, the property, and Movant; to allow Movant to foreclose the lien of  
14 its Deed of Trust or Mortgage; to evict Debtors and/or successors of Debtors; and to obtain ownership,  
15 possession and control of the Property.

16 Movant further requests that any order for relief granted in this case remain in effect in any  
17 bankruptcy chapter to which the debtors may convert.

18 DATED this 7th day of March, 2018.

19  
20 TIFFANY & BOSCO, P.A.

21 BY /s/ LJM # 014228

22 Mark S. Bosco  
23 Leonard J. McDonald  
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